

## HUMAN SERVICES BOARD

# INTRODUCTION

## DISCUSSION

The "Katie Beckett" program is a program that extends Medicaid coverage to certain minor children with extraordinary medical needs. In "Katie Beckett" cases, the parents' income and resources are not counted as available to the minor child. The qualification requirements are found in M200.23(e). These requirements include an age limit of

eighteen years or younger. The petitioners' son, A.R., turned eighteen years old on September 30, 2008. A.R.'s eighteenth birthday triggered a review by HAEU to determine whether coverage could be extended if A.R. met certain requirements.

Petitioners filed for a fair hearing on December 16, 2008. A telephone status conference was held on January 5, 2009. The Department was asked to send the Board and petitioners copies of all notices and CATN notes from September 2008 through December 2008. The following chronology is based on the information from the telephone status conference and Department records.

(1) Verification Notice sent to petitioners on September 3, 2008 asking them to complete review form by September 15, 2008.

(2) Review form received by Department on September 9, 2008.

(3) October 3, 2008 CATN notes from V.M. noting she was informed that the information she needed to update A.R.'s eligibility is whether he is still in school and whether any new IQ testing was done. V.M. tried to reach petitioners by telephone. Petitioner explained at the status conference that she made attempts to reach V.M. by telephone.

(4) October 3, 2008. The Department sent two notices to petitioners. The first notice is a verification request for information about school and testing. This notice asks for information by October 16, 2008 and informs petitioners that if information is not received, Medicaid benefits will end October 31, 2008. The second

notice informs petitioners that A.R.'s Medicaid is extended to October 31, 2008.

(5) October 16, 2008. Department sends petitioners a Health Care Closure Notice informing them that A.R.'s Medicaid will close October 31, 2008 because there has been no response to requests for information. The notice includes appeal rights.

(6) October 21, 2008. Department sends petitioners a Notice of Decision that A.R.'s Medicaid will end on November 1, 2008 because petitioners did not provide requested information. Petitioner (mother) indicated the notice had not been read.

(7) November 1, 2008. Medicaid closed.

(8) November 19, 2008. Petitioner (mother) calls HAEU after learning from a provider that A.R.'s case has been closed.

(9) November 20, 2008. Telephone call between V.M. and mother. CATN notes that petitioner (mother) is upset that the family did not receive a telephone call before A.R.'s benefits were terminated. A new application is sent to petitioners.

(10) December 15, 2008. The Department sends A.R. a Notice of Decision that he is eligible for Medicaid retroactive to November 2, 2008.

It should be noted that there is no coverage break in A.R.'s case. At the telephone status conference, the Department stated that if there were any medical costs that were not covered by Medicaid between November 1, 2008 and December 15, 2008, that the petitioners should send the information to the Department.

Petitioners are aggrieved. First, they want V.M. disciplined. Second, they want a requirement that the Department telephone recipients before terminating benefits. Both requests are outside the purview of the Human Services Board.

The Human Services Board's authority to hear cases is established by the Legislature. The limits on Board jurisdiction are found at 3 V.S.A. § 3091(a); the pertinent section reads:

An opportunity for a fair hearing will be granted to any individual requesting a hearing because his or her claim for assistance, benefits or services is denied, or is not acted upon with reasonable promptness; or because the individual is aggrieved by any other agency action affecting his or her receipt of assistance, benefits, or services...

Based on its jurisdiction, the Board can decide whether the Department's action regarding eligibility for a program, termination of benefits, the amount of benefits, etc. is correct. Because there has been no break in coverage for A.R., issues involving the November 1, 2008 termination are moot.

In addition, the grant of jurisdiction does not give the Board the authority to make personnel decisions. To the extent that an employee such as V.M. is covered by union contract or Department personnel policies, the contract and

policy provisions apply. Petitioners have the option of complaining to V.M.'s supervisors and asking them to take appropriate action.

In addition, Medicaid law delineates the notice requirements the Department must take when a decision is made to terminate benefits. M140 *et seq.* Those provisions include written notice setting out the proposed action, the reasons for the action, and appeal rights. In termination cases, the Department must give the individual written notice ten days in advance of the closure date. By giving advance notice, the individual has the option of appealing prior to the closure date and asking for continuing benefits.

The Department satisfied the notice provisions in the regulations. Petitioners have the option of seeking rule-making to require the Department to give oral notice.

ORDER

The petitioners' appeal is dismissed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4(D).

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